



Cornwall Council

FORM OF APPLICATION FOR MODIFICATION ORDER

Wildlife and Countryside Act 1981

**Definitive Map and Statement for the former District / Borough* of Penwith / Kerrier / Carrick /
Restormel / North Cornwall / Caradon***

To: Cornwall Council

of: New County Hall, Treyew Road, Truro TR1 3AY

I/We [REDACTED]

of [REDACTED]

hereby apply for an Order under section 53(2) of the Wildlife and Countryside Act 1981 modifying the definitive map and statement for the area by:

(a) Deleting the *footpath / bridleway / restricted byway / byway open to all traffic**

from:Grid Ref.....

to:Grid Ref.....

(b) Adding Restricted Byway

from: County Road C0098 Gridref: SW57363083

to: Bridleway 201/79 Gridref: SW57563077

(c) Upgrading to a

from:

to:

(d) Varying /adding to the particulars relating to the *footpath/bridleway/restricted byway/byway open to all traffic **

from:Grid Ref.....

to:Grid Ref.....

by providing that

.....

and shown on the map accompanying this application.

* Please delete text as applicable

I / We attach copies of the following documentary evidence (including statement of witnesses) in support of this application:

..... DOCUMENTARY EVIDENCE ATTACHED

Signed: ...



Dated:

2 June 2019

Documentary Evidence

Our Path Reference: 112/RX

Grid Reference: SW574307

Parish: St Hilary

Map of Path:

Claimed route shown in blue.



Description of Path:

Path starts at County Road C0098 SW57363083 and ends at Bridleway 201/79 SW57563077

Well defined track known as 'Water Lane'

Current Recorded Status:

Path is not recorded on the Definitive Map

Status being claimed: Restricted Byway

Notes:

Path is not believed to be obstructed.

Path is believed to be walked, ridden and cycled
No gates or stiles and used by all.

Evidence from Maps:

Old maps provide very good evidence of the history of roads and other paths. Whilst such maps themselves do not record any user rights, any routes must have been significant enough to be mapped and the maps were intended for use by the public. If old maps clearly show the way marked as a road or old lane it is very good supportive evidence of the way being a road.

OS One Inch Ordnance Survey Maps - One-inch England and Wales, 1888 to 1913

Sheet 351 - 1896 Path is clearly shown as a road.

Ordnance Survey Maps - 25 inch England and Wales, 1841-1952

Cornwall LXXV.2 1907 Path is clearly shown as a road or lane, plot no. 816

OS Six Inch Ordnance Survey Maps - Six-inch England and Wales, 1888 to 1913

Cornwall LXXV.NW 1877 Path is clearly shown as a road.

Bartholomew's Half Inch to the Mile Maps of England and Wales, 1919-1924

These half-inch to the mile (1:126,720) maps were produced with recreation use by motorists and tourists in mind, these maps were popular and influential.

Sheet 37 1903 Path is shown as Road part of a loop back (via what is now bridleway 79) to the county road.

Martyns Map

Not shown

Primary Evidence:

Inland Revenue Valuation Records - Finance (1908-10) Act 1910

These maps on their own can provide very good evidence of a RoW. If a track is uncoloured on the map, this is very good evidence that it was excluded as being a public road. Footpaths and bridleways are usually included in the hereditament (plot area) but there is a deduction for them in the valuation. It is often not easy to positively identify the routes of footpaths and bridleways for large hereditaments but it may be easier for smaller ones.

IR 128/5/901 path appears to run between hereditaments but map image could be clearer.

Tithe Records

The tithe maps and apportionments are an important source of information about the history and topography of a parish. They provide details of land ownership and occupation, and the type of cultivation of the land. They were produced in order to assess the tithe payable in cash to the parish church for the support of the church and its clergy. Roads were specifically excluded from tithe payments and thus can provide valuable evidence for the existence of Rights of Way. The tithe apportionment often describes public tracks as "Common, wastes and roads" or sometimes "Roads and rivers", which are all areas which generated no tithes for the church. Often such areas excluded from tithe are shaded in a sienna coloured wash. Tithe records can provide reputable evidence on their own taken in support of other standards of public records.

Breage map 5, path is clearly shown, as plot 3713 which includes adjacent county road. Apportionment p58, Roads and Wastes at Trescowe, no owner, occupier or tithe. Very good evidence.

Parish Area Books

Breage - Plot no 816 is described as 'Road' .

Other Evidence:

Land Ownership

Exclusion of a path from land registrations on either side is very indicative of public rights. However where an adjacent registration includes a path this does not give any indication against public rights. Land registrations sometimes deliberately or inadvertently extend ownership beyond that shown on the original deeds.

Land Registry: No part of the old lane is registered. All adjacent land registered clearly excluding the lane.

Summary and Statement of Reasons:

It is shown on all old maps and the Tithe map shows the path as a plot listed under 'Roads and Wastes'. The combination of the evidence from Old Maps, Area Book and Tithe Map gives very strong indication that the path is highway and now should be recorded with Restricted Byway status. Significantly the evidence is further supported by the Land Registry records that show the lane completely excluded from all adjacent registrations.

In order to be able to modify the definitive map and statement, the Surveying Authority needs to have a discovery of evidence which shows, on the balance of probabilities, that highway rights exist. While no single piece of evidence is necessarily conclusive, the applicant believes that taken as a whole the evidence demonstrates highway reputation.